

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Albert David Guzman**

Docket No. **274900**

L.C. No. **01-012958-FC**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The delayed application for leave to appeal is DISMISSED for lack of jurisdiction because it was not filed within 12 months of the November 24, 2003 judgment of sentence as required by MCR 7.205(F)(3). Neither exception to the 12-month limitation has been satisfied in this case. In particular, the second condition of the second exception was not satisfied, as counsel was not requested within 12 months of the judgment of sentence. See MCR 7.205(F)(4)(b). The record also shows that no affirmative representation was made to defendant that appellate counsel would not be appointed if requested. At sentencing defendant was told, "If you wish to request the assistance of Court-appointed counsel. You should fill out the form being handed to you now and return it to the Court within 42 days." As such, defendant was not discouraged by the trial court from requesting appellate counsel.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 11 2007

Date

Sandra Schultz Mengel
Chief Clerk